THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO : 413 of 2000

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23.12.1999 in WP NO : 1392 OF 1997 on the file of the High Court.)

25-07-2005

Between:

The APSRTC, rep. by its Depot Manager, Kukatpally, Hyderabad District.

..... APPELLANT

AND

1. Sri P.K. Rao and another

.....RESPONDENTS

The Court made the following :

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JUDGMENT (per Hon'ble Smt Justice T. Meena Kumari):

Challenging the orders passed by the learned Single Judge of this Court in WP No. 1392 of 1997 dated 23.12.1999, modifying the award passed by the Addl. Industrial

Tribunal, Hyderabad, in I.D. No. 40/94 dt. 27-3-1995, by directing the Corporation to reinstate the writ petitioner in to service with continuity of service without any back wages and other attendant benefits, the first respondent-Corporation filed the present appeal.

The appellant herein is the first respondent and the first respondent herein is the petitioner in the above writ petition.

The brief facts of the case that led to filing of the writ appeal are as follows;-

The first respondent was appointed as a conductor in the appellant-Corporation in the year 1990 and while he was in service, in 1993 a cheque was conducted and the first respondent was charge sheeted for the misconduct, and was subjected to an inquiry. Basing on the enquiry report, he was removed from service through impugned order dt.10.11.1993. Challenging the said order, the first respondent approached the Labour Court and the Labour Court, after considering the rival contentions and the material placed before it, though reached to a conclusion that the first respondent was guilty of the charges leveled against him, yet, by taking into consideration with reference to the gravity of the charges, directed the appellant-Corporation herein to reinstate the first respondent herein as a fresh conductor. Questioning the said award, the first respondent filed the above writ petition. The appellant-Corporation contested the writ petition.

The learned single Judge of this Court, after examining the award challenged before him and the other material available on record and also the legal position existing, while modifying the award and directing the appellant-Corporation to reinstate the writ petitioner with continuity of service, made it clear that the said continuity of service is without any back wages and other attendant benefits. Aggrieved by the said order, the Corporation preferred this writ appeal.

Heard the learned Counsel on either side.

Having heard the learned Counsel on either side and on a perusal of the order under challenge, it has to be observed that the learned Single Judge after thoroughly examining all the aspects and taking into account the gravity of the misconduct and the punishment imposed against the writ petitioner, modified the award and gave a direction for the reinstatement of the first respondent with continuity of service but denied to award any back wages and other attendant

benefits. Further, from the material available on record, it reveals that the first respondent herein was found guilty of the charges that were leveled against him. In view of the above facts and circumstances of the case, we see no irregularity or illegality in the findings of the learned Single Judge that warrants interference by this Court. But, by taking into consideration the entire previous service of more than 15 years of the appellant, we are inclined to modify the order under challenge only to the effect of continuity of service for the purpose of pension only. We make it clear that there shall be continuity of service of the first respondent that should be counted only for the purpose of pension at the time of his retirement.

With the aforesaid observations, the writ appeal is disposed of. No costs.

(T. MEENA KUMARI, J)

Dt. 25-7-2005

(P. LAKSHAMANA REDDY, J)

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THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P. LAKSHMANA REDDY

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(Judgment of the Division Bench delivered by

Hon'ble Smt Justice T Meena Kumari)

25th July 2005